

**TOWN OF DARIEN  
BOARD OF SELECTMAN  
REGULAR MEETING  
MARCH 7, 2005**

**ATTENDANCE:** Evonne M. Klein, First Selectwoman; Joseph Miceli;  
Barbara Thorne, Robert Harrel, Jr.; Linda Santarella

**STAFF:** John Crary, Administrative Officer

**OTHERS:** Wayne Fox, Town Counsel

**CALL TO ORDER**

The First Selectwoman called the Regular Meeting to order at 5:35 p.m.

**1<sup>ST</sup> SELECTWOMAN'S REPORT**

The First Selectwoman reported on a number of different items. Basically there are some regional issues that will be discussed in upcoming weeks. We'll be revisiting the COG matter and the Route 7 & 15 interchange expansion plans, the Rail Government Study, but more specifically White Caps, and the L&G Broadwater Project. On April 4, members of the Advisory Committee of Coastal Waters will report their findings to us. The CERT Program Introductory Course will be held on Tuesday, March 29 from 7:30 – 9:30 in Room 119 at Town Hall. New Canaan CERT instructors will facilitate the class. We had signed on late and our EMV was not in place, but we have received \$3,000 worth of funding for manuals and backpacks.

The First Selectwoman reported on some ConnDOT issues and had met with Deputy Commissioner Carl Bard on Thursday. They reviewed Darien's transportation issues/frustrations. With respect specifically to the Darien train station, items discussed were the contract issues with the repair work and funding for the shoddy construction, traffic issues along the Post Road, such as implementing traffic calming measures, adding more crosswalks, acting on our tip request and installing fully protective signals. Traffic issues along Route 136 include the possibility of taking thru trucks off Route 136, implementing traffic calming measures, installing a better signalization system at Tokeneke School so as to provide a safer environment for the children who go to school there, and the painting of the thruway overpass. These issues are not new and have been discussed with Bob Steeger, the Chief of Police, and ConnDOT. The opportunity to meet with Carl Bard was terrific. The First Selectwoman will be meeting with Chief Lovello on Wednesday to further review these traffic matters.

The next topic is enabling Emergency Service volunteers to participate in the medical insurance. Effective October of 2003, the legislature passed an act that allowed emergency volunteers to participate in the town's medical program. The participants would pay for the health insurance. There are approximately 18 participants from all three Fire Departments. Ms. Klein wants this on a future agenda to discuss and take action on.

Our next meeting is scheduled for Monday, March 21<sup>st</sup>. We have a public hearing scheduled at 7:30 p.m. to discuss the Health Department fee increases. An RTM meeting is also scheduled. Suggestion was made to change the Board Meeting to an earlier time on the 21<sup>st</sup>, or to Tuesday, March 22<sup>nd</sup>; or to Monday, March 28<sup>th</sup>. The topic of refunding was the item on the agenda for the statutory RTM meeting. Ms. Thorne suggested if the meeting was moved to Monday, March 28, there would be more items to discuss. A reminder was brought up of an invitation to the Board of Selectman to attend a meeting on Wednesday, March 23 regarding new library

building. Ms. Santarella noted that the newspaper should be notified to remind everyone about the public hearing, and it was noted that there would be a legal notice in Thursday's newspaper. Decision made to move the meeting to March 28<sup>th</sup>.

Ms. Klein was disappointed to read some of the comments regarding the budget process in Thursday's newspaper, and feels that it's time to clarify the process one more time. The Board of Selectmen received the proposed budget schedule in December, which outlines all of the times and dates that were necessary to work on this year's budget. The Board agreed to the schedule as presented. The Board kept two factors in mind during our budget session – the need to continue improvements made this year and an obligation to balance our growing needs with financial implications for each taxpayer. These are the reasons why each budget item was reviewed in a deliberate fashion, line by line, to insure that each item had more than ample time to be presented, reviewed, questions asked and answered, discussed and modified as a majority of the four Selectmen saw fit. During this process the Board had to make choices and difficult decisions and did so with full knowledge of their implications. The Board consciously decided which problems and issues would be addressed in the 2005/2006 fiscal year, which are in line with what we as a Board identified as a top priority for the town. This year the Board can say we have a complete understanding of each department and each line item and the effect the Board's actions will have on quality and quantity of services the community will receive as well as the new initiative that will be achieved during the 2005/2006 fiscal year. During the budget process, the Board of Selectmen had ample opportunity to propose additional cuts to the budget other than those recommended by the Administrative Officer and staff, and members had ample opportunity to gather support for those cuts up until the night of the vote. This is my 10<sup>th</sup> budget as an elected member on a town board, and although all 10 have been deemed "very difficult", and some budgets have been put forward with "no new initiative", I believe this has been the most challenging to date. I also believe that this Board made some tough choices, but most importantly, made informed choices. I make no excuses for what has been called my relentless pace and exhaustive energy. We have accomplished much but yet there remains so much to be done. Quite frankly, I'm energized as is the community. To quote Rudy Giuliani, "Everyone's accountable all of the time". He further states "more than anything, leaders should welcome being held accountable. Nothing builds confidence in a leader more than a willingness to take responsibility for what happens during his watch. One might add that nothing builds a stronger case for holding employees to a high standard than a boss who holds himself to an even higher one". This is true in any organization, but particularly important in government. Ms. Thorne stated that there has been a lot of conversation both in meetings and the press about the budget process this year. She chose to address this issue in the context it belongs, by reading her letter at the Board of Selectmen meeting.

### **ADMINISTRATIVE OFFICER'S REPORT**

Mr. Cray reported that during the budget process the Board indicated that they would like to see proposals for increases and fees in a number of areas. One is the Health Department, and two others are Solid Waste Disposal and the Building Department. The proposals from both Solid Waste and the Building Department are expected by Friday, and Mr. Cray will send them to the Board for review. The expectation is that they will be put on the agenda for the March 28<sup>th</sup> meeting for discussion, and assuming the Board is supportive of going forward, have a public hearing scheduled for April so that this can be adopted by July 1<sup>st</sup>. Bob Steeger from Public Works and Charlie Saverine of the Building Department have completed a survey of neighboring municipalities of what their rates are for the building department. To expand on the CERT Plan, the draft agreement of the CERT training program has been provided, and we need up to 30 volunteers to participate. There is no cash involvement on our part other than that we will provide monthly reports to SWRPA. The agreement ends on March 30<sup>th</sup>. Mr. Cray expects that it will be put on the agenda for March 28<sup>th</sup>, the Board will approve it, the classes would immediately begin, and then our obligation to SWRPA ends on March 30<sup>th</sup>.

### **NEW BUSINESS**

**a. Meet with Vince Proto, Darien Health Department to discuss proposed fee increases.**

Ms. Klein welcomed Mr. Proto, and stated that the Board had requested him to come and answer questions. Ms. Thorne asked how do the proposed fee increases relate to fees in other communities? Mr. Proto responded that the fees were in the ballpark of other communities. Mr. Harrel inquired as to the Farmers Market fees. Mr. Proto responded that they are not charged fees. Mr. Crary inquired about adding an additional Part-Time Health Sanitarian to work one day a week and would the revenue from increased fees cover this salary? Mr. Proto said projected revenue is \$35,000. Meeting to be held on March 29, 2005 from 7:30 – 9:30 p.m. to review breakdown of fee schedule and projected revenue.

The First Selectwoman reported that the clamming permits will increase to \$10.00 and the commercial shellfishing fee will increase to \$25.00. There is a proposed boating fee and currently the fee for a bushel is \$5.

Vince Proto reported that the catering permits are added in but not listed. He clarified that Class 1 catering license is for prepackaged food and is no risk. Class 2 is more involved, and Class 3 and 4 involves cooking, hot processes, and generally relates to restaurants and delicatessens.

Dr. Miceli inquired as to the commercial clamming license. Does that mean that anybody who clams in Darien waters is considered commercial? Ms. Klein responded that commercial clamming is not allowed inside Darien until survey is done. Mr. Harrel stated that Darien's jurisdiction is from point to point, from Long Island Sound to the next point, from Long Neck Point to Nash Island. Land inside that is our jurisdiction. Land outside of that is state jurisdiction. Ms. Klein stated that we won't be voting on these topics until after the Public Hearing, and she thanked Mr. Proto for his time.

**b. Discuss Report on the condition of the Senior Center**

The First Selectwoman stated that the Board members are seeing the report for the first time. Building rehabilitation is more than at estimation stage. Mr. Harrel inquired as to the numbers on page 7 — are they takeoff numbers? The response was that the numbers are first hand knowledge from two boilers just broken and four air conditioning units replaced over last 4 years. Plumbing, heating and electrical improvements/repairs are hidden inside and can become an educated guess. Prices for exterior windows are multiplied by square footage of windows. A member of the audience said that it's more involved than looking at costs. One problem would be that there would be limited use during the rehabilitation process. He suggested to start over, not renovate. Ms. Thorne agreed that there is an emotional attachment to the building. It's not a simple engineering answer and she respected the opinion of the professionals. The task force will get firmer numbers. Ms. Santarella stated that the Seniors hopefully would not move until the building is renovated or another building is ready. As the present building is a former school, not everything has to be replaced. A new building might be smaller or new configurations may be needed for the present building.

**c. Discuss Formation of and Charge for Senior Center Task Force**

The First Selectwoman reported that currently there is no charge for Senior Center task force. She inquired if a few Board members would want to volunteer to write one. She expressed interest, and said it should consist of 7-9 members, with possibly the Chairman of Commission on Aging; the Director of the Senior Center; a community member-at-large, and someone from the Board of Selectmen and Board of Finance. Ms. Santarella agreed that someone from the Board of Finance should be on the task force. All agreed that someone from the Board of Selectmen should be on as well. Ms. Santarella inquired if someone from health and social services should be on the task force, as well as someone with an engineering/ construction background for structural issues, and a suggestion was made that Bob Steeger

sit as ex-officio. The two Chairmen of the Senior Center reported that it is a sound building made of block and brick and steel girders, and the proposal reflects what is needed. A teardown would be expensive due to asbestos. The people like where they are and it can't be rebuilt for \$7M. The First Selectwoman suggested that the task force do their work and present a recommendation. It would be helpful for a community member-at-large to be on the task force as they would have an outside opinion. It was decided that Dr. Miceli and Ms. Klein would write the charge. Nancy Zengo said that she didn't want to see any neglect to what is already there. Ms. Klein thanked the members of the Senior Center for their time.

**d. Discuss draft snow shoveling ordinance**

The First Selectwoman reported that the ordinance was revised because it is currently unenforceable. The Police Department reviewed it and came forward with a recommendation. Captain Connelly did write it.

Ms. Thorne asked who owns the sidewalks, and who's responsible for them? The ordinance is for people who have a sidewalk in front of their house, and they are responsible for clearing the snow and ice. If the town put the sidewalk there, then the town has the responsibility to clean the snow and ice. Could the homeowner dig up the sidewalk so they don't have to remove the snow and ice? Mr. Fox reports that Statute 7-148 municipality authority talks specifically about highways and sidewalks. The municipality may require owners or occupants of land adjacent to any sidewalk or what they call public works to remove snow or ice or face penalties for failure to do so. There is the power to force the individual to clear the sidewalk. Dr. Miceli stated that even though snow and ice are cleared from your sidewalk, if someone still falls or gets hurt, it is homeowner's responsibility because you changed it. Mr. Fox reported that the municipality does not have blanket liability. Dr. Miceli asked if it is covered under homeowners insurance. Mr. Fox replied that he didn't know. Mr. Harrel said that the homeowner would definitely be legally liable. Ms. Santarella asked a question on behalf of a citizen — Can the homeowner erect a sign saying "Stay off Sidewalk"? Is there a liability once a sidewalk is cleared and then it turns to black ice? Mr. Fox replies that the municipality does not have a blanket obligation with responsibility to sidewalks. That's why these fall-down cases are so difficult. There is no absolute liability, no indemnification. The way the statute is written, if occupants of land adjacent to any sidewalk or public work go out and dig the sidewalk up, you don't have the right to do that because it's public property. The fact that the homeowner dug it up doesn't remove their obligation. Can the homeowner erect a sign that says "Keep off the sidewalk"? They can erect whatever sign they want but it doesn't eliminate their responsibility as required by the ordinance this body made. Mr. Harrel inquired about Captain Connelly giving an estimate as to the manpower involved. There are 7 or 8 officers on the road at any time. A meeting was held with Hugh McManus to review draft. The old ordinance consisted of one paragraph and gave homeowners 18 hours to clear snow and ice. This was unenforceable because snow could be plowed back after the homeowner shoveled. Another enforcement problem was that if you didn't clear it after your warning period, you were arrested, fingerprinted, and sent to Court. Ms. Santarella inquired into the cost for the town to clear snow and ice. The town owns two bobcats. Private employees should be hired to clear ice and snow because town personnel are busy and it would be lengthy and expensive. There was little response to the letter sent out regarding Darien High School kids shoveling snow for the elderly people. Ms. Thorne personally feels town should investigate the expense and make it similar to how contractors clear for the housing authority. The housing authority pays for it. Dr. Miceli asked Mr. Fox if anyone was immune from this, state government or federal government? Mr. Fox responded that under this proposal and ones in other municipalities, this is a working draft. Dr. Miceli stated that part of the sidewalk in front of Post Office (Federal Government) is not cleared. Parts of Ledge Road by the railroad are cleared by the town, but the railroad is State property. If the federal government and state government don't have to adhere to this, then why do we have to? Why are we going to ask local people to do this? Mr. Fox stated the

Chief and Captain Connelly were concerned about the existing statute and the practical problems that it creates, basically it says you can go out to an elderly person and say that they will be arrested if the snow and ice aren't cleared. If in fact the ordinance is adopted, then the only one that would be exempt would be anyone your body deems exempt. This would be a leaner process by which you could give a warning, and you would be told to correct it within a certain period of time, and if you didn't correct it within a certain period of time, there's a potential for a fine and a potential for a hearing. They were suggesting this concept would be better than what we have. Dr. Miceli asked Mr. Fox to clarify that he was saying we can make anyone immune that we want. Mr. Fox said that as long as you do it in a way that's equal and it doesn't deny the protection clause. Ms. Santarella asked Mr. Fox if he had helped with the review of concerns and issues. He said that they had actually written the draft, reviewed it, and they may want to change some concerns. They looked at Stamford's ordinance, which doesn't require individuals to push snow back that was plowed and has a different time frame for removal, and simply adopted it. Flora Smith reported that if there is a possibility of Darien clearing sidewalks, if placing snow in wrong place, is homeowner responsible or liable if someone gets hurt? Ms. Santarella said that was the same point her person was trying to make. Ms. Klein said that the even bigger question is do we want an ordinance to shovel snow? We need cost numbers. Ms. Thorne said she thinks the civil citation process is a good process for this and other fees.

**e. Discuss the preparation of an ordinance to regulate noise**

The First Selectwoman reported on the hours that landscapers and construction workers start and end work. Currently there is no noise ordinance in place. The statute allows us to have our own noise ordinance and the authority to set decibel levels. The Board was asked if they felt this was something that needed to be regulated or not. Ms. Thorne stated that she knew Greenwich has one, but didn't know about New Canaan. An ordinance makes sense, and it's a quality of life issue. Dr. Miceli agreed that it would be good to establish times because no one knows what they are. Mr. Harrel asked if it is an administrative rule when signing building permits. Flora Schneider said state statute is 7 a.m. – 10 p.m., and is measured by decibels. The town does own a decibel-measuring machine. Dr. Miceli asked Mr. Fox if we can make our ordinance stiffer, but not looser for the state. Mr. Fox said yes, that what is in front of you is actually state regulations, which are very detailed and have an enormous number of exceptions. What the state says is what you want to do. The First Selectwoman said more information will be compiled before the next meeting.

**f. Discuss formation of and charge for Charter Revision Committee**

The First Selectwoman stated that a charge would be put together before a vote was taken on the formation of a Charter Revision Committee. Ms. Thorne provided a copy of the old charge as a starting point for revisions. A suggestion was made to have each Board Member make revisions to the charge. Mr. Harrel said state statute is up to 16 members but no fewer than 5. The First Selectwoman would like this to be underway in April. Ms. Santorella suggested that the public be informed of the search for prospective volunteers. The First Selectwoman wrote about volunteer opportunities in her February column, and she will include similar information in her April column to recruit prospective volunteers. The Building Committee at Tokeneke School used the same recruiting procedure.

**g. Discuss Grove Street Parking**

The First Selectwoman reported that there is no parking enforcement in place. There wasn't a number of parking spaces assigned when this project was appointed. Penny Glassmeyer gave the land and renovated the parking lot. We have 20 extra spaces from the newly configured lot, and we agreed with Penny on 10 spaces for Board of Selectmen. Also, there would be assigned parking spaces for each apartment. Penny needs 6 for 2 of her retailers, 1 for a restaurant, and 2 for handicapped spaces. The

First Selectwoman recommended continuing to allow Grove Street permit holders to park in the Grove Street parking lot. There were 139 permits issued and 50 of them responded through emails, calls, etc. Ms. Thorne inquired as to the voucher situation. The response was no, but it is not enforced. A suggestion was made to move voucher spaces to Leroy but its state controlled. Spaces won't be reissued if people retire or move. The First Selectwoman added that there is a 6-year wait list. Once the winter is over, some spaces will be added to Noroton Heights. Mr. Crary said they would look at lot and perhaps pick up spaces by restriking. Dr. Miceli inquired as to the permit spots. After the permit holder arrives from the city and leaves the lot, are there signs for night parking? The First Selectwoman responded yes. There is also on-street parking on both sides of Grove Street. Flora Smith inquired about Elizabeth Arden parking, and the response was that it's just on Saturdays. The First Selectwoman will send letter out that will put matter to rest.

**g. Discuss CL&P streetlight proceeding at DPUC – Darien \$950 pro rate share.**

Mr. Crary reported on the letter from CCM. They are asking the Board if we wish to participate in streetlight lawsuit proceeding before the DPUC. This topic had come to us about 6 or 8 years ago. We had said we would be interested. Some of the things have been clarified, but there are still some issues remaining. Mr. Harrel feels we should participate, as we will probably be getting money back.

**\*\* MR. HARREL MADE MOTION TO PARTICIPATE.**

**\*\* MS. THORNE SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

**h. Budget Transfer.**

Mr. Crary reports on additional funds needed for conference/training. James Coghlan, Assistant Director – Parks & Recreation, will attend the CLASS Software conference this spring to enhance knowledge and improve use of the new internet web based service. Training will include web customization, custom reports, upgrades, payment server management, etc.

**\*\* MR. HARREL MADE MOTION TO APPROVE ADDITIONAL FUNDS.**

**\*\* MS. THORNE SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

**PUBLIC COMMENT**

Public consisted of 2 members.

**APPROVAL OF PREVIOUS MINUTES**

Ms. Klein stated that the minutes from December 13 and January 3 have been approved.

**\*\* MS. HARREL MADE MOTION TO APPROVE MINUTES FROM FEBRUARY 18 SPECIAL MEETING.**

**\*\* MS. THORNE SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

**\*\* MR. HARREL MADE MOTION TO APPROVE MINUTES FROM JANUARY 18 REGULAR MEETING.**

**\*\* MS. THORNE SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

Ms. Santarella has corrections to page 3 of the January 3 minutes, but they had already been approved so she noted that it was a typographical error. The First Selectwoman asked for corrections to the January 18 minutes. Ms. Santarella noted that on page 4, paragraph 4, she was stated as saying "She read and supported the new Darien town plan development". Ms. Santarella states that she didn't say that. She states that she had said that she had read the draft of the new town plan development and she further stated that she wanted a draft of the report. She did ask if there were any comments from the public. She asked Mr. Kenney, who is on the Planning and Zoning Commission, saying it seemed comments from the public. He made a gesture of no. The Board remembers that gesture. Ms. Santarella wanted to clarify that with the Board.

**\*\* THE FIRST SELECTWOMAN MADE MOTION TO APPROVE JANUARY 18 MINUTES AS AMENDED.**

**\*\* MS. THORNE SECONDED.**

**\*\* MOTION APPROVED UNANIMOUSLY.**

**\*\* MR. HARREL MADE MOTION TO APPROVE FEBRUARY 7 EXECUTIVE SESSION MINUTES.**

**\*\* MS. THORNE SECONDED.**

**\*\* MOTION APPROVED UNANIMOUSLY.**

#### **FORTHCOMING MEETINGS**

Board of Finance	Tuesday, March 8	8:00 p.m.
Planning & Zoning	Tuesday, March 8	8:00 p.m.

#### **OTHER BUSINESS**

(a two-thirds majority vote is required to add an item to the agenda)

**\*\* THE FIRST SELECTWOMAN MADE MOTION TO ADJOURN MEETING.**

**\*\* MS. THORNE SECONDED.**

**\*\* MOTION APPROVED UNANIMOUSLY.**

The meeting was adjourned at 7:10 p.m.

Respectfully submitted,

Carolyn Marr  
Telesco Secretarial Services